



NEWS

Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS
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Release Date: April 1, 2003

Release Number: S.C. 14/03

SUMMARY OF CASES ACCEPTED DURING THE WEEK OF MARCH 24, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-39 Evans v. City of Berkeley, S112621. (A097187; 104 Cal.App.4th 1; Alameda County Superior Court; 809180-4.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case includes the following issue: Did the City of Berkeley violate the free speech or expressive association rights of the members of the Sea Scouts by terminating the group's rent free use of space at the Berkeley Marina because of the group's refusal, due to its charter from the Boy Scouts of America, to accept the city's requirement that it agree not to discriminate on the basis of religion or sexual orientation?

#03-40 People v. McCall, S113433. (C038946; 104 Cal.App.4th 1365; Trinity County Superior Court; 01F004B.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. This case presents the following issue: Does Health and Safety Code section 11383, subdivision (f), create an impermissible mandatory presumption by providing that "possession of essential chemicals sufficient to manufacture hydriodic acid, with intent to manufacture methamphetamine, shall be deemed to be possession of hydriodic acid" for purposes of the offense of possession of hydriodic acid with the intent to manufacture methamphetamine?

(over)

#03-41 People v. Wallace, S113321. (A092782; 105 Cal.App.4th250; Contra Costa County Superior Court; 000223-8.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of a criminal offense. This case presents the following issue: Did the trial court abuse its discretion in dismissing a prior conviction allegation under the three strikes law, where the court, in exercising its discretion, considered evidence presented at the preliminary hearing in the prior case that preceded the defendant's guilty plea in that matter?

DISPOSITIONS

#02-74 Topsail Court Homeowners Assn. v. County of Santa Cruz, S104952, was transferred to the Court of Appeal for reconsideration in light of Government Code section 53091, subdivisions (d) and (e) (Sen. Bill No. 1711 (2001-2002 Reg. Sess.)).

#02-185 People v. Whitehurst, S110272, was transferred to the Court of Appeal for reconsideration in light of People v. Reliford (2003) 29 Cal.4th 1007.

The following cases were dismissed and remanded to the Court of Appeal:

#02-76 People v. Haselman, S105031.

#02-159 People v. Sizemore, S108717.

#02-38 Walia v. Aetna, Inc., S103311.

STATUS

#02-143 People v. Butler, S107791. The court ordered supplemental briefing on the following issues: In the absence of a timely objection, may a defendant who has been ordered to submit to a blood test pursuant to Penal Code section 1202.1, subdivisions (a) and (c)(6), appeal such order on the ground that the record contains insufficient evidence to establish probable cause to believe that blood, semen, or other bodily fluid capable of transmitting human immunodeficiency virus has been transferred from the defendant to the victim? If the defendant may appeal on such ground without a timely objection, what is the appropriate remedy if the reviewing court finds insufficient evidence to support a finding of probable cause?

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